

Planning and Development

CHANGE OF USE

Overview

A change in the use of land usually relates to any changes made to an existing use of a property. This can also include changes to or from a residential land use.

When is a Development Application required?

A change of use in the land is 'Development' and therefore requires a Development Application. If the site has previously been used for a different purpose, you may need to make an application for Development Approval for a Change of Use. It is important to check with Council before you begin your business or proposed land use. This way you can be sure that it is suited to the property and complies with the Copper Coast Development Plan and the area's Planning Zone.

For the purpose of determining whether a change in the use of land has occurred, the commencement or revival of a particular use of the land will, subject to subsection 2, of Section 6 of the Development Act 1993, be regarded as a change in the use of the land if –

- The use supersedes a previous use of the land; or
- The commencement of the use or the revival of the use follows upon a period or non-use; or
- The use is additional to a previously established use of the land which continues despite the commencement of the new use.

Often, determining whether a change of use of land has occurred or not is a straightforward common sense matter, eg when an existing dwelling is proposed to be converted to an office or to flats, when a domestic outbuilding is to be used for commercial storage, despite the presence of a dwelling also on the site, when a shop is going to be used to manufacture a product and thereby becomes an industrial use, the number or the size/location of signs on a site is to be altered, or professional office space is changed into retail shop premises.

But, occasionally, the differentiation is more subtle and less obvious, particularly when changing from one form of commercial or retail activity to another is involved. For example, replacing a butcher shop with a newsagency would not change the primary use of the land, as both are classed as a shop, but a change in the intensity of use such as a butcher shop being converted to a restaurant will be classed as a change of use for which Development Approval is needed.

It is important that before entering into any arrangement or setting up a new activity on a property to check first with the Council planning officers and discuss what is proposed to take place to clarify whether a Development Approval will be needed.

Please note that Building Consent may also be required, particularly if there are to be additions or internal alterations made to a building or if the changes being made to a building are such that a different building classification is assigned.

What about Rural Land uses?

The concept of change of use applies also to rural land uses. Primary production covers a diverse range of farming activities and cropping and of animal husbandry, and the mix of these can change periodically to reflect growing cycles, the markets, and the climate. Such a dynamic state of variation does not fit neatly into a planning system based on a concept of a clearly defined 'static' land use. Generally, most of these activities or operations remain within the overall 'generic' primary production use of the land. But the planning system does deal with some changes of agricultural use.

The following factors are relevant in helping determine if a change in rural land use has occurred:

- the nature of the existing use which, in a farm setting, may encompass composite activities such as grazing, cropping and horticulture and rotation of activities throughout the farm property and the seasons
- the terms and expressions used in previous approvals for a land use for example, an approval for 'horticulture' will have different implications from an approval for 'vineyard'
- the potential planning impacts arising as a result of the activity - for example, replacing one field crop (wheat) with another (sunflower) or one horticultural crop (onions) with another (potatoes) has, generally, no different impacts and would not be a change of use; however, replacing a field crop with a vineyard or with an orchard is likely to lead to different impacts and would constitute a change in use
- whether there will be a clear intensification of the existing use to which the farm property is put, additional to that already carried on - for example, when an intensive animal use is proposed such as a piggery, feedlot or poultry operation

Contact with Council planning officers is encouraged so that prospective changes in any activity can be discussed. Whether or not a change of use occurs, which needs formal approval, will depend directly upon the circumstances of each case.

Other Authorities and Legislation

An applicant and the Council may also need to consult with other authorities such as State Government Departments responsible for transport, utilities, heritage and environmental protection. Consultation is required if your business involves noise, smells, spray painting, cutting and sanding wood, storing fuel or chemicals and the like.

Specific Information Requirements for a Development Application:

The 'bottom line' is that the more thorough and comprehensive and the higher the quality of the information provided, the less chance delays will occur and the better the understanding of what the change of use entails.

Refer to Council's Development Application Checklist for a detailed list of requirements for a Development Application.

But, as a general rule, the following is necessary for a change of use to be properly considered (where relevant to the particular activity):

- properly drawn and scaled site and building plans showing or identifying
- the entire site and all buildings and structures on it (including existing trees and bushland areas) and the dimensions of property boundaries and buildings/structures (including separation distances from boundaries and between buildings/structures)
- the types of activities existing and proposed across the entire site and a detailed description of their function (including where animals are involved, an indication of the numbers of animals to be kept)
- access points, driveways, location of individual car parking spaces, loading/unloading facilities and vehicle manoeuvring areas
- proposed landscaping including location and species of trees, shrubs and ground covers to be planted
- location, height and design of new fencing
- number, size and location of new (or changed) signage
- location and nature of waste management facilities
- elevation sketches showing external building materials, facade treatments, finishes and colours to be used
- internal floor layout plans (existing and proposed) indicating areas of use and a description of their specific function

- specific information regarding the actual nature of the use
- a clear and precise description of the types of uses and activities proposed to be carried out on the land, eg does the use involve manufacturing, servicing of vehicles, the preparation and/or the handling of food, the keeping of animals, the storage of goods, whether the public will have access and on what basis
- details of current land uses on the site
- number of staff employed
- days and hours of operation
- machinery, equipment and plant to be used or worked or stored on the site
- and details of processes and operations carried out

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